

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

OREGON NATURAL DESERT ASSOCIATION  
AND OREGON NATURAL RESOURCES COUNCIL  
FUND,

Civil No. 04-3096-CO  
O R D E R

Plaintiff,

vs.

UNITED STATES FOREST SERVICE,  
UNITED STATES FISH AND WILDLIFE  
SERVICE, AND KAREN SHIMAMOTO,  
Fremont-Winema Forest Supervisor,

Defendants.

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AIKEN, Judge:

Magistrate Judge Cooney filed his Findings and Recommendation on April 28, 2005. The matter is now before me pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When a party objects to any portion of the Magistrate's Findings and Recommendation, the district court must make a de novo determination of that portion of the Magistrate's report. 28

U.S.C. § 636(b)(1)(B); McDonnell Douglas Corp. v. Commodore Business Machines, 656 F.2d 1309, 1313 (9th Cir. 1981), cert. denied, 455 U.S. 920 (1982).

Defendants have timely filed objections. I have, therefore, given the file of this case a de novo review. I adopt the Magistrate's Findings and Recommendation (doc. 28) that the motion to intervene (doc. 18) is granted in part and denied in part as follows: defendants' motion to intervene as a matter of right is denied as to the defendants; denied as to the individual permit holders in the liability phase of the litigation. The motion to intervene as a matter of right as to the individual permit holders in the remedial phase of the litigation is granted. Moreover, the individual permit holders will be allowed to file amicus briefs in the liability phase of the litigation; also, the individual permit holders will be allowed to participate in any settlement negotiations or settlement agreement in this case.


I agree with Judge Cooney's practical resolution of this motion. Regarding permissive intervention, I note that even when the requirements of Fed. R. Civ. P. 24(b) are satisfied, it is discretionary for the court to allow intervention. Kootenai Tribe of Idaho v. Veneman, 313 F.3d 1094, 1111 (9<sup>th</sup> Cir. 2002).

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IT IS SO ORDERED.

Dated this 20 day of June 2005.

  
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Ann Aiken  
United States District Judge